

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

WINE & CANVAS DEVELOPMENT LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
THEODORE WEISSER,	)	
CHRISTOPHER MUYLLE,	)	No. 1:11-cv-01598-TWP-DKL
YN CANVAS CA, LLC doing business as	)	
WWW.ART-UNCORKED.COM; doing	)	
business as ART UNCORKED,	)	
WEISSER MANAGEMENT GROUP, LLC,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION**

This matter is before the Court on Defendant Christopher Muylle's *Motion to Dismiss for Failure to State a Claim and Failure to Seek Leave of Court*. [Dkt. 113.] The Honorable Tanya Walton Pratt, District Judge, designated this Magistrate Judge, under Fed. R. Civ. P. 72 and 28 U.S.C. § 636(b)(1), to issue a report and recommendation on the Motion. [Dkt. 142.] In light of the Court's recommendation [Dkt. 160] to deny Plaintiff's Motion for Leave to File Third-Party Counterclaim and Join Third-Party Counterclaim Defendants (the complaint upon which Defendant Muylle's Motion was based), the undersigned recommends this Motion be **DENIED as moot**.

### Notice Regarding Objections

Within fourteen (14) days of being served with a copy of this recommendation, either party may serve and file specific written objections thereto. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2). A district judge shall make a *de novo* determination of those portions of the recommendation to which objections are made. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(3). If objections are filed, the opposing party may serve a response within fourteen (14) days of the date the objections are filed. The objecting party shall then have seven (7) days to reply, if desired.

Failure to file an objection might result in forfeiture of the right to *de novo* determination by a district judge and to review by the court of appeals of any portion of the recommendation to which an objection was not filed. *Tumminaro v. Astrue*, 671 F.3d 629, 633 (7th Cir. 2011); *United States v. Pineda-Buenaventura*, 622 F.3d 761, 777 (7th Cir. 2010); *Schur v. L. A. Weight Loss Centers, Inc.*, 577 F.3d 752, 761 n. 7 (7th Cir. 2009); *Kruger v. Apfel*, 214 F.3d 784, 787 (7th Cir. 2000); *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Date: 10/17/2013



Denise K. LaRue  
United States Magistrate Judge  
Southern District of Indiana

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